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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,547	06/19/2000	Juris Sulcs	ADVB-412	4064

7590 05/21/2003

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EXAMINER

SANTIAGO, MARICELI

ART UNIT PAPER NUMBER

2879

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/597,547

Applicant(s)

SULCS ET AL.

Examiner

Mariceli Santiago

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached Office Action.

3. ☒ Applicant's reply has overcome the following rejection(s): see attached Office Action.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached Office Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

The Amendment filed April 16, 2003 would not be entered since the amendments to claim 8 to include the recitations "a double ended" and "mounted one in each end of the arc tube", and the amendment to claim 38 to include the recitation "and a lower portion with a flattened bottom" raise new issues and require further consideration, additionally, the amendment presents additional claims 51-53 without canceling a corresponding number of finally rejected claims.

Applicant's arguments, see Page 14, lines 3-12, filed April 16, 2003, with respect to claims 27, 29 and 30 have been fully considered and are persuasive. The rejection of claims 27, 29 and 30 has been withdrawn.

Claims 3, 4, 12-14 and 16 stand rejected for the reasons set forth in **the rejection under 35 U.S.C. 102(b) as being anticipated by Kowalczyk et al. (US 5,552,863)** of the final Office Action mailed January 16, 2003.

Applicant argues that the prior art does not disclose a "canoe-shaped" lower portion, however, as defined in the specification as originally filed, "canoe-shaped" was defined as "narrowed at both ends relative to the center thereof, combination with a flattened bottom suggestive of a canoe". Kowalczyk shows in Fig.4a a vertical longitudinal cross-sectional view of the arc tube comprising upper and lower portions, the lower portion having a "canoe-shaped" profile. Furthermore, Fig.4b shows a horizontal cross-section of the arc tube at the elevation of the electrodes having approximately an inside oval shape. Accordingly, it is the Examiner position that the arc tube disclosed by Kowalczyk discloses a "canoe shaped" bottom portion.

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Furthermore, Applicant argues that the prior art fails to disclose "an upper portion longitudinally conforming generally between said electrodes to the shape of the arc drawn therebetween". Kowalczyk shows in Fig.4a a vertical longitudinal cross-sectional view of the arc tube comprising a slightly elevated upper portion from the electrodes elevation and having end sections with reduced diameter, thus, the structure provides an arc tube having a general profile which conforms with the shape of the arc tube drawn between the electrodes.

Claims 17, 19, 23-26 and 32-37 stand rejected for the reasons set forth in **the rejection under 35 U.S.C. 102(b) as being anticipated by Howles et al. (US 4,001,623)** of the final Office Action mailed January 16, 2003.

Applicant argues that the assertion of the term "flattened" by the Examiner is erroneous and contrary to the meaning as used in the instant application. For Examination purposes the claims are read in their broadest reasonable interpretation and not in view of the specification, therefore, the recitation "flattened bottom" is considered to be taught by Howles. Howles discloses an arc tube comprising along a longitudinal cross-section (Fig. 5) upper and lower portions, wherein the upper portion has a continuously curved profile (19) and the lower portion has a flat profile (10). In regards to Fig. 6, the figure shows a cross-sectional view transverse to the longitudinal direction of the arc tube comprising upper and lower portions having continuously curved profiles.

Claims 1 and 2 stand rejected for the reasons set forth in **the rejection under 35 U.S.C. 103(a) as being unpatentable over Howles et al. (US 4,001,623) in view of Kowalczyk et al. (US 5,552,863)** of the final Office Action mailed January 16, 2003.

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Applicant argues that the assertion of the term "flattened" by the Examiner is erroneous and contrary to the meaning as used in the instant application. For examination purposes the claims are read in their broadest reasonable interpretation and not in view of the specification, therefore, the recitation "flattened bottom" is considered to be taught by Howles. Howles discloses an arc tube comprising along a longitudinal cross-section (Fig. 5) upper and lower portions, wherein the upper portion has a continuously curved profile (19) and the lower portion has a flat profile (10). In regards to Fig. 6, the figure shows a cross-sectional view transverse to the longitudinal direction of the arc tube comprising upper and lower portions having continuously curved profiles.

Claims 8 and 11 stand rejected for the reasons set forth in **the rejection under 35 U.S.C. 103(a) as being unpatentable over Cox (US 4,988,917) in view of Fohl et al. (US 4,499,396)** of the final Office Action mailed January 16, 2003.

The amendment to include the recitations "a double ended" and "mounted one in each end of the arc tube" in claim 8 was not entered since it raises new issues and requires further consideration. Accordingly, claims 8 and 11 stand rejected for the reasons set forth on the final Office Action mailed January 16, 2003.

Claims 38-40 stand rejected for the reasons set forth in **the rejection under 35 U.S.C. 103(a) as being unpatentable over Caruso et al. (US 4,742,268)** of the final Office Action mailed January 16, 2003.

In regards to claims 38-40, the amendment to include the recitation "and a lower portion with a flattened bottom" in claim 38 was not entered since it raises new issues and requires

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further consideration. Accordingly, claims 38-40 stand rejected for the reasons set forth on the final Office Action mailed January 16, 2003.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariceli Santiago whose telephone number is (703) 305-1083. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (703) 305-4794. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7382. Additionally, the following fax phone numbers can be used during the prosecution of this application (703) 872-9318 (for response before a Final Action) and (703) 872-9319 (for response after a Final Action).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*MS* 5/19/03  
Mariceli Santiago  
Patent Examiner  
Art Unit 2879

*VIP Patel*  
**VIP PATEL**  
**PRIMARY EXAMINER**